

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Acceleration of Broadband Deployment)	WC Docket No. 11-59
Expanding the Reach and Reducing the Cost of)	
Broadband Deployment by Improving Policies)	
Regarding Public Rights of Way and Wireless)	
Facilities Siting)	

COMMENTS OF BRUNSWICK COUNTY

Brunswick County files these comments in response to the Notice of Inquiry (“NOI”), released April 7, 2011, in the above-entitled proceeding. Through these comments, Brunswick County seeks to provide the Commission with basic information regarding its local right-of-way and facility management practices and charges.¹ The Commission should not interfere with these local policies here. Brunswick County has developed considerable expertise applying its policies to protect and further public safety, economic development, and other community interests. By adopting rules in this area, the Commission could disrupt this process at substantial cost to local taxpayers and to the local economy. We believe that a basic respect for federalism, a fair reading of the Constitution and the Communications Act, and an honest assessment of the Commission’s limited expertise on local land use matters all point to the same conclusion: this is no place for federal regulation.

¹ We use the term “charges” to include both any cost recovery that is part of right-of-way and facility management (such as permitting fees), as well as other compensation we may receive from communications companies for use of the rights-of-way and other facilities consistent with state and local law.

Brunswick County has successfully managed its property to encourage the location of several telecommunication towers and accessory facilities to date. As a result, wireless telephone service is available to many of the households and businesses in our jurisdiction. There is no evidence that our policies or charges with respect to the placement of telecommunication towers and accessory facilities have discouraged broadband deployment. Our community *welcomes* broadband deployment, and our policies allow us to work with any company willing to provide service. No company has cited our policies as a reason that it will not provide service. On the other hand, we also know that many entities seeking access to locate telecommunication facilities would prefer to live without rules or regulations, to the great detriment of other users, abutting landowners, commuters, and the general taxpayer.

In response to the NOI, Brunswick County provides the following information:

I. *Application Procedures, Forms, Substantive Requirements, and Charges.*

The Commission asks whether all necessary application procedures, forms, substantive requirements, and charges are readily available.²

Brunswick County applies the following facility placement procedures. The location of telecommunication facilities are permitted in our Agricultural (A-1), Business (B-1) and Industrial (I-1) zoning districts with the approval of a conditional use permit by the Board of Supervisors which encompasses 80% of the land parcels within. Article 26. Standards For Telecommunications Antenna And Towers of the Brunswick County Zoning Ordinance outlines the procedures for citing a telecommunication facility in our County. Article 26 also provides the administrative approval procedure for co-locating an antenna on an existing tower or other

² NOI ¶ 14.

suitable structure. Our ordinance is available on the County's website at www.brunswickco.com and www.municode.com

Sources of Delays.

The Commission asks what factors are chiefly responsible to the extent applications are not processed in a timely fashion. The Commission also asks about errors or omissions in applications.³

In Brunswick County, most applications that require approval of a conditional use permit are processed within three (3) months. This three (3) month period includes:

- submittal of application for review;
- public notice advertisement as required by the Code of Virginia;
- public hearing by the Planning Commission; and,
- public hearing by the Board of Supervisors.

However, in some cases there are delays because the applicant has not provided the requested information in the application or further information is requested by the Planning Commission and or Board of Supervisors to make an informed decision.

Improvements.

The Commission asks whether there are particular practices that can improve processing.⁴

Brunswick County has recognized a number of practices that have improved the process. Our Land Use Amendment Application and Zoning Ordinance are available on line at

³ *Id.*

⁴ NOI ¶¶ 14, 29.

www.brunswickco.com. Staff works actively with applicants to overcome problems and streamline the process.

Permitting Charges.

The Commission seeks data “on current permitting charges, including all recurring and non-recurring charges, as well as any application, administrative, or processing fees.” Specifically, the Commission asks commenters to identify:

- the type of facilities for which such charges are assessed;
- how such charges are structured (e.g., per foot or percent of revenue in the case of rights of way fees);
- whether the community is subject to comprehensive state franchising or rights-of way-laws;
- whether the charges are published in advance or individually negotiated, designed to approximate market rates or merely recover costs (direct and/or indirect), and accompanied by comprehensive terms, and conditions; and
- the value of any in-kind contributions required for access or permit approval.

The Commission furthers asks whether such charges are related to impacts on the local community, such as pavement restoration costs for projects that involve trenching in roadways.⁵

In Brunswick County, currently the following charges are associated with the location of telecommunication towers and accessory facilities:

- Land Use Amendment Application Fee of \$250;
- Public Hearing Sign Fee \$25 per sign as required for each 500 feet of road frontage;
- Site Plan Review Fee \$75;

⁵ NOI ¶ 17.

- Erosion and Sediment Control Plan Review/Land Disturbance Permit \$135;
- Building Permit Fee based on the cost of construction
 - Minimum Fee \$50
 - Project Cost - \$1,000 - \$1,000,000 - \$3.50 per thousand
 - Project Cost - \$1,000,001 - \$3,000,000 - \$2.50 per thousand
 - Project Cost – over \$3,000,000 - \$1.50 per thousand

These charges are important because the above described fees are used to cover the cost of public notices in newspapers, copies of the application and supporting documents, mailings, staff time and required inspections. These fees are the same as those charged to other applicants for a conditional use permit.

II. *Local Policy Objectives.*

The Commission asks what “policy goals and other objectives” underlie the local practices and charges in this area.⁶

In Brunswick County, our policies are designed to achieve the following:

- facilitate the responsible deployment of services;
- make the services broadly available;
- ensure public safety; avoid traffic disruption;
- maintain and repair roadways;
- prevent public disruption and damage to abutting property;
- satisfy aesthetic, environmental, or historic preservation concerns;
- avoid damage to the property of others;
-

⁶ NOI ¶ 22.

III. *Possible Commission Actions.*

Finally, the Commission asks what actions the Commission might take in this area.⁷

As noted above, Brunswick County strongly urges the FCC to refrain from regulating local right-of-way management and facility placement processes. These are highly fact-specific matters, which turn on local engineering practices, local environmental and historical conditions, local traffic and economic development patterns, and other significant community concerns and circumstances. These matters are managed by local staffs with considerable expertise. Imposing a federal regulatory regime would create unnecessary costs for our community, and it would have the potential to undermine important local policies. Likewise, Commission regulation of charges for use of the rights-of-way could have significant impacts on the community, and may actually make it infeasible to continue to maintain or provide important public services. If the Commission feels compelled to act in this area at all, it should limit itself to voluntary programs and educational activities, and to implementing its own recommendations in the National Broadband Plan for working cooperatively with state and local governments.

CONCLUSION

Brunswick County urges the Commission to conclude that the location of telecommunication towers and accessory facilities and charges are not impeding broadband deployment. As indicated above, in Brunswick County, our policies and procedures are designed to protect important local interests, and have done so for many years. There is no evidence that the policies have impaired any company from providing broadband service here, and there are many reasons to believe that federal regulations would prove costly and disruptive to our

⁷ NOI ¶ 36.

community. The economic growth of our County depends on access to electronic communications in all forms; we welcome providers of these services into our communities.

Respectfully submitted,

Brunswick County

By: Charlette T. Woolridge
County Administrator
P.O. Box 399
Lawrenceville, VA 23868

cc: National League of Cities, Bonavita@nlc.org
National Association of Counties, jarnold@naco.org
NATOA, straylor@natoa.org
The United States Conference of Mayors, rthaniel@usmayors.org